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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/603,532	06/27/2000	Eric Cohen-Solal	US000149	4750

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EXAMINER

CHANG, JON CARLTON

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 07/16/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/603,532

Applicant(s)

COHEN-SOLAL ET AL.

Examiner

Jon Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14,15,26-28,32 and 35 is/are allowed.
- 6) ☒ Claim(s) 1-4,6,7,9-11,16-19,21-24,29-31,33 and 34 is/are rejected.
- 7) ☒ Claim(s) 5,8,12,13,20 and 25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

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Comment Regarding IDS

1. In the Information Disclosure Statement filed June 27, 2000, reference AB (see Form PTO-1449) has not been considered because it is in a language not understood by the Examiner.

Specification

2. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code (page 10, line 25). Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

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not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-4, 6-7, 9-11 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,408,278 to Carney et al. (hereinafter "Carney").

As to claim 1, Carney discloses a method for presenting information to an audience, said method comprising the steps of:

processing at an image signal generated by a visual capture device focused on said audience to extract relevant characteristics about said audience (column 6, lines 53-55, and 64);

analyzing said extracted characteristics (column 6, lines 65-66); and

modifying said presented information based on said analysis (column 7, lines 33-35).

Carney does not disclose a processing a video signal from an audio/visual capture device. However, the Examiner takes Official Notice that audio/visual capture devices which produce audio and video signals are well known in the art. The use of an audio/visual capture device is not seen as a patentable difference. Use of a audio/visual capture device (e.g., a video camera) instead of a camera, is seen as a substitution of an art recognized equivalent for the purpose of analyzing an image to determine characteristics of subjects (i.e., the audience) in the image. Thus, use of an audio/visual capture device in place of Carney's camera is considered obvious.

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Regarding claim 2, Carney discloses the method of claim 1, wherein said extracted characteristics include one or more demographic statistics (column 7, lines 8-10).

With regard to claim 3, Carney discloses that said extracted characteristics include the current size of the audience (at column 6, lines 6-11, Carney mentions a "sufficient number" implying that the system counts the number of individuals in the audience).

Regarding claim 4, Carney discloses the method of claim 1, wherein said extracted characteristics evaluate how quickly said audience is changing over time (abstract, last four lines; column 5, lines 51-56).

With regard to claim 6, Carney discloses a method for presenting information to an audience, said method comprising the steps of:

processing an image signal generated by a visual capture device focused on said audience to extract demographic statistics about said audience (column 6, lines 53-55, and 64); and

selecting said presented information based on said demographic statistics (column 7, lines 33-35).

Carney does not disclose a processing a video signal from an audio/visual capture device. However, the Examiner takes Official Notice that audio/visual capture devices which produce audio and video signals are well known in the art. The use of an audio/visual capture device is not seen as a patentable difference. Use of a audio/visual capture device (e.g., a video camera) instead of a camera, is seen as a

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substitution of an art recognized equivalent for the purpose of analyzing an image to determine characteristics of subjects (i.e., the audience) in the image. Thus, use of an audio/visual capture device in place of Carney's camera is considered obvious.

As to claim 7, Carney further discloses the step of evaluating how said demographics change over time (see last four lines of the abstract; column 5, lines 51-56).

With regard to claim 9, Carney discloses the method of claim 6, wherein said demographics statistics evaluate said audience on the basis of at least one of age, race and gender (column 5, lines 47-49).

As to claim 10, Carney discloses a method for presenting information to an audience, said method comprising the steps of:

processing an image signal generated by a visual capture device focused on said audience to determine how quickly said audience is changing over time (last four lines of abstract; column 5, lines 51-56; column 6, lines 53-55, and 64); and

selecting said presented information based on said determination of how quickly said audience is changing (abstract, last four lines; column 6, lines 3-11; column 7, lines 33-35).

Carney does not disclose a processing a video signal from an audio/visual capture device. However, the Examiner takes Official Notice that audio/visual capture devices which produce audio and video signals are well known in the art. The use of an audio/visual capture device is not seen as a patentable difference. Use of a audio/visual capture device (e.g., a video camera) instead of a camera, is seen as a

substitution of an art recognized equivalent for the purpose of analyzing an image to determine characteristics of subjects (i.e., the audience) in the image. Thus, use of an audio/visual capture device in place of Carney's camera is considered obvious.

In regards to claim 11, Carney discloses the method of claim 10, further comprising the step of evaluating how quickly said audience is changing for a given demographic segment (see last four lines of the abstract; column 5, lines 47-56).

As to claim 29, remarks analogous to those presented above for claim 1 are applicable. The memory, computer readable code and processor are included in the computers in which Carney's invention operate (e.g., Fig.2).

As to claim 30, remarks analogous to those presented above for claim 6 are applicable. The memory, computer readable code and processor are included in the computers in which Carney's invention operate (e.g., Fig.2).

As to claim 31, remarks analogous to those presented above for claim 10 are applicable. The memory, computer readable code and processor are included in the computers in which Carney's invention operate (e.g., Fig.2).

6. Claims 16-19, 21-24 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Carney and U.S. Patent 5,550,928 to Lu et al. (hereinafter "Lu").

As to claim 16, Carney discloses a method for evaluating information presented to an audience, said method comprising the steps of:

processing an image signal generated by a visual capture device focused on said audience to extract demographic statistics about said audience (column 6, lines 53-55, and 64).

Carney does not disclose generating a report indicating said demographic statistics of said audience. Lu teaches generating an audience report (Fig.3, element 84; column 10, lines 46-47). Generating an audience report would provide useful information to clients of Carney's system, allowing them to plan programming. Therefore, it would have been obvious to modify Carney's invention to generate reports. Since Carney's system is concerned with demographics of an audience, the report would indicate the demographic statistics.

Regarding claim 17, Carney discloses the method of claim 16, wherein said demographic statistics indicate a size of said audience (at column 6, lines 6-11, Carney mentions a "sufficient number" implying that the system counts the number of individuals in the audience).

As to claim 18, Carney discloses the method of claim 16, wherein said demographic statistics indicate a size of said audience for at least one demographic segment (at column 6, lines 6-11).

Referring to claim 19, Carney discloses the method of claim 16, wherein said demographic statistics indicate a rate of change of said audience for at least one demographic segment (see last four lines of the abstract; column 5, lines 47-56).

Regarding claim 21, Carney discloses a method for evaluating information presented to an audience, said method comprising the steps of:

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processing at an image signal generated by a visual capture device focused on said audience to extract relevant characteristics about said audience (column 6, lines 53-55, and 64);

Carney does not disclose generating a report indicating said demographic statistics of said audience. Lu teaches generating an audience report (Fig.3, element 84; column 10, lines 46-47). Generating an audience report would provide useful information to clients of Carney's system, allowing them to plan programming. Therefore, it would have been obvious to modify Carney's invention to generate reports. Since Carney's system is concerned with relevant characteristics of an audience, the report would indicate the relevant characteristics.

As to claim 22, Carney discloses the method of claim 21, wherein said extracted relevant characteristics indicate a size of said audience (at column 6, lines 6-11, Carney mentions a "sufficient number" implying that the system counts the number of individuals in the audience).

Regarding claim 23, Carney discloses the method of claim 21, wherein said extracted relevant characteristics indicate a size of said audience for at least one demographic segment (at column 6, lines 6-11).

Regarding claim 24, Carney discloses the method of claim 21, wherein said extracted relevant characteristics indicate a rate of change of said audience for at least one demographic segment (see last four lines of the abstract; column 5, lines 47-56).

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As to claim 33, remarks analogous to those presented above for claim 16 are applicable. The memory, computer readable code and processor are included in the computers in which Carney's invention operate (e.g., Fig.2).

As to claim 34, remarks analogous to those presented above for claim 21 are applicable. The memory, computer readable code and processor are included in the computers in which Carney's invention operate (e.g., Fig.2).

Allowable Subject Matter

7. Claims 14-15, 26-28, 32 and 35 are allowed.
8. Claims 5, 8, 12-13, 20 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

References Cited

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 4,769,697 to Gilley et al. discloses a passive television audience measuring system which determines the number of people in an audience.

U.S. Patent 4,858,000 to Lu discloses an image recognition audience measurement system which identifies predetermined individual members of a viewing audience in a monitored area.

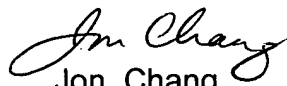
UK Patent Application GB 2269670 A teaches measuring an audio characteristic of an audience.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon Chang whose telephone number is (703)305-8439. The examiner can normally be reached on M-F 8:00 a.m.-6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on (703)308-6604. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9314 for regular communications and (703)872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.


Jon Chang
Primary Examiner
Art Unit 2623

Jon Chang
July 12, 2003